IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.

Date of Hearing/Order: 30.11.2017

Appeal No. ST/1258/2011-DB

(Arising out of Order-in-Appeal No. 311(DKV)ST)/JPR-1/2011 dated 21.7.2011 passed by the Commissioner (Appeals), Central Excise & Customs, Jaipur)

M/s Rekha N. Publicity — Appellant

Vs.

CCE, Jaipur — Respondent

Appearance

Ms. Rinky Arora, Advocate - for the appellant

Shri Manjhi, D.R. - for the respondent

CORAM: **Hon'ble Mr. S.K. Mohanty, Member (Judicial)**
Hon'ble Mr. B. Ravichandran, Member (Technical)

Final Order No. 58234/2017

Per S.K. Mohanty :

This appeal is directed against the impugned order dated 21.7.2011 passed by the Commissioner of Customs, Central Excise (Appeals), Jaipur.

2. The appellant, in this case, is engaged in the activity of providing advertising agency services to various customers. Besides providing such taxable service, the appellant also undertakes the activity of painting of different brands of tea in the walls of houses, belonging to different persons. For undertaking such activities, the appellant collects certain amount from the clients and paid the same

to the house owners. The department entertained the view that the charges received by the appellant should be considered as gross value for the purpose of computation of the service tax liability under the taxable category of advertising agency service. Accordingly, the department has confirmed the adjudged demand against the appellant.

3. The ld. Advocate appearing for the appellant submits that in respect of the taxable service i.e. advertising agency service provided by it, the appellant had appropriately discharged the service tax liability and with regard to the charges paid to the house owners, the same were received by the appellant from its client and paid to the house owners. In this context, she has placed sample copy invoices raised by the client, showing that the charges actually received towards the rent, were paid to the house owners.

4. On the other hand, the ld. DR appearing for the Revenue reiterates the findings recorded in the impugned order.

5. Heard both sides and perused the case records.

6. We find that the amount of rent actually collected by the appellant from its client were paid to the house owners and the appellant never gained anything out of such rent amount received

from the client. Thus, the amount of rent should not form part of gross value under Section 67 of the Finance Act, 1994 for computation of the service tax liability.

7. Therefore, we do not find any merits in the impugned order. Accordingly, after setting aside the same, we allow the appeal in favour of the appellant.

(Dictated & pronounced in open Court)

(B. Ravichandran)
Member (Technical)

(S.K. Mohanty)
Member (Judicial)

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